



EUROPEAN COMMISSION

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Mrs. Tsetska TSATCHEVA  
President  
Narodno Sabranie  
2 Narodno Sabranie Square,  
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Dear President,

*I would like to thank you on behalf of the Commission for the reasoned opinion of the Narodno Sabranie of the Republic of Bulgaria on the Commission Proposal for a Council Directive amending Directive 2003/96/EC on Energy Taxation {COM(2011)169}.*

*The Commission takes particular note of the Narodno Sabranie's conclusion that the proposal would not comply with the principle of subsidiarity.*

*By way of introduction, the Commission would like to underline that the proposed Directive is in essence intended to ensure that the internal market continues to function properly in a context of new requirements relating to the limitation of climate change, to the use of renewable energy sources and to energy savings, as endorsed by the Presidency Conclusions of the European Council of 8-9 March 2007 and of 11-12 December 2008. In addition, the Presidency Conclusions of the European Council of 13-14 March 2008<sup>1</sup> refer expressly to the need to consider a review of the Energy Taxation Directive to bring it more closely into line with the EU's Energy and Climate Change objectives.*

*In that respect, attention has also to be drawn to Article 11 of the TFEU. According to this provision environmental protection requirements must be integrated into the definition and implementation of the Union's policies and activities, in particular with a view to promoting sustainable development.*

*By their very nature, the above objectives require action at Union level, since they cannot be sufficiently achieved by the Member States. Moreover, the Commission considers that its proposal does not go beyond what is necessary to achieve the objectives concerned.*

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<sup>1</sup> 7652/1/08 rev.1, 20/5/2008.

*The Commission considers that a separate treatment of CO<sub>2</sub>-related taxation is key to these objectives. In addition, the separation of this taxation from general energy consumption taxation also creates the technical conditions for avoiding potential distortions due more specifically to the coexistence of energy taxation and ETS. In this regard, the Commission draws attention to a request made by the Council and entered into the minutes of the Council meeting at the time of adoption of Directive 2003/96/EC. This request reads as follows: "On the basis of a proposal from the Commission, the Council undertakes to positively examine tax measures which will accompany the future implementation of a Community emission trading scheme, particularly in order to avoid cases of double taxation."<sup>2</sup>*

*As regards the more specific points mentioned in the opinion of the Narodno Sabranie, the Commission would like to provide the following clarifications:*

*The impacts of the proposal on the competitiveness of business have been analysed in detail in the Impact Assessment and did not give rise to substantiated concerns. It should be borne in mind that the level of environmental protection retained corresponds to the orientations agreed upon in the context of the EU's overall energy and climate change policy and notably the 2020 objectives agreed upon in March 2007. As regards the position of individual Member States, including Bulgaria, the proposal mirrors the so-called effort-sharing decision (Decision No 406/2009/EC of the European Parliament and the Council of 23 April 2009). It also takes into account certain industrial sectors under a potential risk of carbon leakage.*

*The European Commission is fully aware of the particular challenges that might be faced in Member States that currently apply relatively low tax rates. In this respect and as you correctly mention, the proposal takes into account the different economic and social situations of the Member States, allowing them to apply transitional periods for a gradual adaptation of the national tax systems.*

*On the problem of inflationary pressure, the Commission does not consider that the proposed revision gives rise to such a risk. The purpose of the indexation of minimum tax rates of general energy consumption taxation is to maintain the real value of the minimum levels of taxation which are set in absolute terms per energy content. Without regular updates, their value is eroded over time and the intended effects on the internal market and, by the same token, the energy saving objectives, will not be obtained.*

*It should be noted as well that it is a matter for each Member State to decide the way in which they wish to distribute or re-distribute their budgetary resources. This concerns notably the question of how any potential additional revenue – should this in fact result from the implementation of the Directive – would be recycled back into the economy*

*The Commission thanks the Narodno Sabranie of the Republic of Bulgaria for the information provided on its concerns regarding the proposal for revision of the Energy Taxation Directive and would like to take this opportunity to confirm that discussions on the proposal have already started in the Council of the EU.*

*I look forward to continuing our political dialogue in future.*

*Yours faithfully,*

*Maroš Šefčovič  
Vice-President*

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<sup>2</sup> 13253/03 ADD 1, 07/10/2003.